

MINUTES AND REPORT
of
MEETING OF THE LEGISLATION COMMITTEE

Held at 225 Swanston Street, Melbourne, on
Tuesday 3rd August 1982 commencing 3.30 pm

1. Present:

Mr. M. Rundle, Chairman
Mr. B. Greer
Mr. B.H. Macintosh
Mr. E.J. Long
Mr. W.W. Rawlinson, Executive Officer

2. Preliminary Meeting with Registry Staff

Prior to the meeting the Committee met with Ms. L. Kuchmar of the Cooperative Registry Staff to check the proposed Rules of the Cooperative Federation of Victoria Ltd. and discuss formation meeting procedure.

3. Amendments to Co-operation Act 1981

The meeting considered a prepared paper on reasons and proposals for eight amendments to the Act for submission to Council as the basis of a submission to the Ministers Legislative Review Committee.

The amendments proposed concerned:

1. Statutory Definition of a Cooperative
2. Minimum membership of a Farm Production Cooperative
3. Enabling legislation to change from one kind of society to another
4. Enabling legislation to allow foreign societies to become members of a federation
5. Forfeiture of shares of non active members

6. Distribution of bonus shares from asset revaluation reserves
7. Removal of restriction on maximum number of Directors
8. Provide for employee members of Employment Cooperatives to become directors.

3.. (i) Statutory Definition

The meeting agreed the reason for and proposed Amendments attached as Appendix A be recommended to Council.

3. (ii) Minimum membership of Farm Producers Society

The meeting accepted the reasons for the proposed amendment to allow a minimum of three persons to form a Farm Producers Society. It was considered the objects of such a society are covered by the Community Settlement kind of society (Division 4, Part II, Section 11).

The meeting noted that the Federation's Conference on 10th August 1982 includes a paper from a member of a Farm Producers Society. The meeting agreed to obtain practical answers to the matter from that member and review the proposal at its next meeting.

3. (iii) Enable Societies to change from one kind to another

The meeting noted the absence of such provision in Victoria Cooperative legislation and the existence of such facility in other Australian Cooperative legislation.

The meeting agreed to recommend to Council the draft amendment attached as Appendix B.

3. (iv) Enable foreign societies, associations to become members of a Federation

The meeting noted the concept had previously been accepted by the Registrar and that currently the Federation has an enquiry for membership from a potential Fishing Cooperative in Tasmania.

The meeting agreed to recommend to Council the draft amendment attached as Appendix C.

3. (v) Forfeiture of shares of non active members

The meeting accepted the concept that untraceable members funds should not be required to deplete a Cooperative's capital by transference out of the Cooperative. The precedent established in other Australian Cooperative legislation was noted.

The meeting agreed to recommend to Council the draft amendment attached as Appendix D.

3. (vi) Distribution of bonus shares from asset revaluation reserve

The meeting recognised the need for members of Cooperatives to be able to benefit individually from inflationary effect on asset values and noted the procedures of such enabling legislation provided in other Australian Cooperative legislation.

The meeting agreed to recommend to Council the draft amendment attached as Appendix E.

3. (vii) Removal of restrictions on maximum number of directors

The Government and general federation policy of encouraging amalgamations of Cooperatives was noted. The provisions of the Companies Code and the Building Societies Act were also noted.

The meeting agreed to recommend to Council the draft amendment attached as Appendix F.

3.(viii) Provide for employee members to become directors of Employment Cooperatives

The meeting considered provision should be made for the establishment of a new kind of Society to be known as Industrial Society.

Proposed objects, powers, member qualifications and appointment of directors of such Societies were considered.

The meeting agreed these draft proposals be circulated to Employment Cooperative members of the Federation for comment and return before 3rd September 1982.

4. Next Meeting

The Committee agreed to meet again in the week commencing 6th September 1982.

5. Closure

The meeting was closed at 5.30 p.m.

APPENDIX A

Statutory Definition of a Cooperative

Part II, Division I, Societies Generally

6(1) Amend to read

A society which conforms to Cooperative Principles
of Open Membership

as defined in Section 52(2) of this Act

Equitable distribution of surplus

as defined in Section 60(5)(3) of this Act

Limited interest on share capital

as defined in Section 60(5) of this Act

Democratic Control

as defined in Section 111(3) of this Act

may be formed as a society for promoting the economic
or social interests of its members ...

Alternatively

Part I Preliminary

(5) Amend to read

"Society" means a Society which conforms to the
Cooperative principles of

Open Membership

Equitable distribution of surplus

Limited interest on Share Capital

Democratic control

registered under Part III and includes an association
or federation so registered.

43 D. (1) Where a society has passed a special resolution for a change in kind of the society -

Request to refuse registration of resolution.

- (a) the holders in aggregate of not less than 10 per cent of the number of shares issued by the society;
- (b) the holders in aggregate of not less than 10 per cent in nominal value of any bonds issued by the society; or
- (c) creditors of the society the aggregate debt owed to whom by the society is not less than 20 per cent of the value of all outstanding debts owed by the society,

may request the registrar to refuse to register the special resolution.

- (2) A request under subsection (1) may be made only within 1 month after the date on which the special resolution to which it relates was passed, and may be made on behalf of the persons entitled to make the request by such one or more of their number as they appoint in writing for the purpose.

43 E. (1) The registrar shall not register a copy of a special resolution for a change in kind of a society until the expiration of 1 month after the date on which the resolution was passed.

Registration of resolution.

- (2) The registrar may, where he has received a request under section 43D (1), refuse to register a copy of the special resolution having regard to the rights and interests of the members of the society or any class of them as well as to the rights and interests of the creditors of the society.

APPENDIX B

Change from one kind of Society to another

Part II Division 6 B Change in kind of society

43 A. 43^m) In this Division, "kind", in relation to a society, means a kind specified in section 6 (1).

Interpre-
tation:

43 B. 43^m) A society (other than an association or Federation registered under this Act) may, upon the registration of a special resolution in accordance with this Division, change from being a society of one kind to a society of a different kind.

Change
in kind.

43 C. 43^m) (1) A society or a member of a society may give notice of motion for a special resolution for a change in kind of the society.

Proposal
for a
change in
kind.

(2) Notice of motion referred to in subsection

(1) -

(a) shall, except as may be determined by the registrar in accordance with subsection (3), be given to each person who is -

(i) a member of the society;

(ii) the holder of any deposits with the society; or

(iii) a creditor of the society; and

(b) shall be given not less than 21 days before the date of the meeting of the society at which the motion is proposed to be moved.

(3) The registrar may, on application by the society or a member, determine that notice of motion need not be given to such persons as are specified in the determination.

APPENDIX C

Enable foreign societies, associations
to become members of a federation

Part II Section 49 (2)

Amend to read

"In subsection (1) and in section 58 "Authorised Society or Company" means A society registered under any other Act of Parliament, a Foreign Society or Foreign Association, or a body incorporated under any other Act of Parliament which society, association or body is certified by the registrar to be of a substantially cooperative character."

(3) The registrar shall not register a copy of the special resolution unless the society concerned has, at the meeting at which the special resolution was passed or at some later time, resolve to make such alterations to its rules as in the opinion of the registrar are necessary to bring them into conformity with the rules of societies of the kind that the society will become upon the registration of the special resolution.

APPENDIX C

b Enable foreign societies, associations
to become members of a federation

Part II Section 49 (2)

Amend to read

"In subsection (1) and in section 58 "Authorised Society or Company" means A society registered under any other Act of Parliament, a Foreign Society or Foreign Association, or a body incorporated under any other Act of Parliament which society, association or body is certified by the registrar to be of a substantially cooperative character."



APPENDIX E

Distribution of bonus shares from asset revaluation reserves

Proposed amendment

After section 60, insert:-

60 A. (1) Where -

(a) the assets of a society being assets not acquired for resale at a profit, have been -

(i) sold at a profit; or
(ii) revalued at a greater value than that disclosed prior to the revaluation in the books of the society; and

(b) the society is authorised by its rules to issue bonus shares to its members in the circumstances referred to in paragraph (a),

the society may make an application to the Advisory Council for its consent to the issue of bonus shares in respect of the sale or revaluation, as the case may be.

(2) An application under subsection (1) shall specify the terms on which the bonus shares are to be issued and shall be accompanied by -

(a) a statement of the value of the assets concerned as disclosed in the books of the society before the sale or revaluation, as the case may be;

(b) where the application arises from, or partly from, a sale of assets, a statement of the price for which the assets were sold;

Issues of
bonus
shares

APPENDIX D

Forfeiture of shares of non active members

Part III Division 2 Members and Funds

Amend by deleting Section 65 (1) (2) (3) from the Act and substituting new subsection to Section 59.

- 59 (16) (a) Subject to this subsection the board of a society with limited liability other than a credit society may, if authorised by the rules of the society, declare to be forfeited the shares of any member who has not for a period specified in the rules of the Society had any dealings with the society or whose whereabouts have not been known to the society for a period so specified. Any such declaration shall have effect according to its tenor.
- (b) The society shall not declare the shares of any member to be forfeited unless he has been given not less than one month's notice of its intention to do so or, where his whereabouts are unknown to the society, it has given, in a newspaper circulating in the district in which the registered office of the society is situated, at least one month's notice of its intention to do so.
- (c) Upon forfeiture of any shares under this subsection but with the expiry of a time period specified in the rules of the society such shares shall remain available for reissue to the original holder.

APPENDIX F

Removal of restriction on maximum number of directors

Proposed amendment

Amend section 103 (1) to read

"The number of directors of a society shall not
be less than three."